



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2020-0161; FRL-10173-01-R6]

Air Plan Approval; Texas; Revised Emissions Inventory for the Dallas-Fort Worth Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving revisions to the Texas State Implementation Plan (SIP) applicable to the Dallas-Fort Worth (DFW) serious ozone nonattainment area for the 2008 ozone National Ambient Air Quality Standard (NAAQS). Specifically, the EPA is approving a revised 2011 base year emissions inventory (EI) for the DFW area.

DATES: This rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2020-0161. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Clovis Steib, EPA Region 6 Office, Infrastructure & Ozone Section, 214-665-7566, steib.clovis@epa.gov. Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office

may be closed to the public to reduce the risk of transmitting COVID-19. Please call or e-mail the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” means the EPA.

I. Background

The background for this action is discussed in detail in our October 9, 2020, proposal (85 FR 64084). In that document we proposed to approve the Reasonable Further Progress (RFP) demonstration and associated motor vehicle emission budgets, contingency measures should the area fail to make RFP emissions reductions or attain the 2008 ozone NAAQS by the applicable attainment date, and a revised 2011 base year EI for the DFW area. In the October 2020 proposal, we also described the status of the adequacy determination for the DFW nitrogen oxides (NO_x) and volatile organic compounds (VOC) Motor Vehicle Emission Budgets (MVEBs) for 2020 in accordance with 40 CFR 93.118(f)(2).

Our October 2020 proposal provided a detailed description of the revisions and the rationale for the EPA’s proposed actions, together with a discussion of the opportunity to comment. The public comment period for our October 2020 proposal action closed on November 9, 2020. We received comments during the public comment period from two sources: Air Law for All, Ltd. (ALFA), on behalf of the Center for Biological Diversity and the Sierra Club; and the North Central Texas Council of Governments (NCTCOG). The comments received from the NCTCOG were supportive of the October 2020 proposal. The comments received from ALFA were adverse and addressed all elements in the October 2020 proposal, except the 2011 revised base year EI. The comments received are available for review in the docket for this rulemaking. The EPA is only finalizing the proposed approval of revisions that address the revised

2011 base year EI at this time. The other elements described in the October 2020 proposal will be addressed in a separate rulemaking.

II. Environmental Justice Considerations

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.”¹ The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”² For this final action, the EPA conducted screening analyses using the EJScreen (Version 2.0) tool. We conducted the analyses for the purpose of providing information to the public, not as a basis of our proposed action. The EJScreen analysis reports are available in the docket for this rulemaking. The EPA found, based on the EJScreen analyses, that this final action will not have disproportionately high or adverse human health or environmental effects on communities with EJ concerns, as the changes to the EI will result in a more accurate EI for the area upon which the State and EPA can assess the RFP Plan requirements for the DFW area.

III. Final Action

¹ See <https://www.epa.gov/environmentaljustice/learn-about-environmental-justice>.

² <https://www.epa.gov/environmentaljustice/learn-about-environmental-justice>.

We are approving revisions to the Texas SIP that address the base year EI requirements for the DFW serious ozone nonattainment area for the 2008 ozone NAAQS. Specifically, we are approving the revised 2011 base year EI for the DFW area. The EI we are approving is provided in the Texas Commission on Environmental Quality's (TCEQ) revisions to the Texas SIP submitted on May 13, 2020, and in Table 1 of our October 2020 proposal.³ We are approving the EI because it contains a comprehensive, accurate, and current inventory of actual emissions for all relevant sources in accordance with CAA sections 172(c)(3) and 182(a)(1). Texas adopted the EIs consistent with the requirement for reasonable public notice and opportunity for a public hearing.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

³ 85 FR 64084.

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other

required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the ***Federal Register***. A major rule cannot take effect until 60 days after it is published in the ***Federal Register***. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: September 9, 2022.

Earthea Nance,
Regional Administrator, Region 6.

For the reasons stated in the preamble, the Environmental Protection Agency amends 40

CFR part 52 as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION
PLANS**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart SS – Texas

2. In §52.2270(e), the table titled “EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP” is amended by adding the entry “Revised 2011 Base Year Emissions Inventory” at the end of the table to read as follows:

§52.2270 Identification of plan.

* * * * *

(e) * * *

**EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES
IN THE TEXAS SIP**

Name of SIP provision	Applicable geographic or non-attainment area	State submittal/ effective date	EPA approval date	Comments
* * * * *	* * * * *			
Revised 2011 Base Year Emissions Inventory	Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise Counties, TX	3/4/2020	[Insert the date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	

* * * * *